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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,316	07/18/2003	Cheng Shu Chaw	6565-66400	4339
24197	7590 12/04/2006		EXAMINER	
KLARQUIST SPARKMAN, LLP			ROGERS, JAMES WILLIAM	
SUITE 1600	121 SW SALMON STREET SUITE 1600		ART UNIT	PAPER NUMBER
PORTLAND,	PORTLAND, OR 97204			
			DATE MAILED: 12/04/2006	5

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/622,316	CHAW ET AL.				
Office Action Summary	Examiner 5	Art Unit				
	James W. Rogers, Ph.D.	1618				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address						
Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	Lely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 18 Ju)⊠ Responsive to communication(s) filed on <u>18 July 2003</u> .					
2a) This action is FINAL . 2b) This	This action is FINAL. 2b) This action is non-final.					
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closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-28</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.	6) Claim(s) is/are rejected.					
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-28</u> are subject to restriction and/or e	election requirement.					
Application Papers						
9) The specification is objected to by the Examine	r.					
10)⊠ The drawing(s) filed on <u>18 July 2003</u> is/are: a)⊠ accepted or b)⊡ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119		,				
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date. Notice of Informal Patent Application (PTO-152)						
Paper No(s)/Mail Date 6) Other:						

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DETAILED ACTION

PETITION TO ACCEPT COLOR DRAWINGS UNDER 37 C.F.R. § 1.84(A)(2)

Applicant's petition under 37 CFR 1.84(A)(2) filed 07/18/2003 is ACCEPTED because the proper petition or processing fee of \$130.00 required under 37 CFR 1.17 has been submitted.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-14, drawn to microparticles, classified in class 424, subclass
 489.
- II. Claims 15-19, drawn to a controlled release formulation, classified in class424, subclass 501.
- III. Claims 20-28, drawn to a method of preparing a sustained release formulation, classified in class 424, subclass 78.33.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case invention II is drawn to a controlled release formulation which is not required in invention I, the process of using the microparticles is not disclosed in invention I although the microparticles could be

used in any number of consumer products besides controlled release formulations such as immediate release dosage forms or used in topical compositions for instance.

Inventions I and II are related to invention III as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the microparticles could be made by any number of other processes not encompassed in invention III such as wet or dry granulation, and forming particulates using super critical fluid techniques such as gas anti-solvent GAS.

Species Election

This application contains claims directed to the following patentably distinct species of the claimed invention: 1) The various carbamates in claims 6,8,9,17,21 and 24 2) The various times for the sustained release in claims 17 and 18 (48 hours or one week).

Applicant is required under 35 U.S.C. 121 to elect a **single disclosed species** for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 6,8,9,17,18,21 and 24 are generic. **Note**: the elected species will name a specific carbamate and specific time that the sustained release releases the active.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims

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readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Rogers, Ph.D. whose telephone number is (571) 272-7838. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER